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Vietnam

Trial Ordered For Two in My Lai Case

FT. McPHERSON, Ga. (UPI) —A military judge has ruled that Sgt. Esequiel Torres must stand trial on charges of murdering Vietnamese civilians at My Lai. His defense attorneys say they will show that the Central Intelligence Agency was to blame for what happened in the village.

"We will be able to show the function of the CIA in this case was to set the whole stage for what happened in My Lai," where an alleged massacre took place, said Charles Weltner, Torres' civilian attorney, yesterday.

Weltner was granted permission to subpoena three men whom he identified as CIA agents, but the military judge, Col. James A. Hagan, refused to allow the defense to summon 21 others, including Defense Secretary Melvin Laird, Army Secretary Stanley R. Resor, Army Chief of Staff William Westmoreland, and CIA Director Richard Helms.

A tentative trial date of Feb. 15 was set for Torres after the prosecution agreed to reduce one of four charges of premeditated murder to a lesser charge of assault.

Pvt. Gerald Smith, 22, of Chicago, was also ordered by Hagan to stand trial in connection with the alleged massacre.

The 22-year-old Torres, of Brownsville, Tex., now stands charged with murdering three Vietnamese civilians with a machinegun and assault in the hanging of another Vietnamese.

Weltner identified the three persons he will subpoena as James B. May, senior adviser in Quang Ngai Province where My Lai is located; Robert Ramsdale, director of the My Lai operation, and his assistant, Capt. Clarence J. Dawkins.

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to travel, in accordance with the first paragraph of the following Article.

Throughout the duration of hostilities, Parties to the conflict shall endeavour, with the cooperation of the neutral Powers concerned, to make arrangements for the accommodation in neutral countries of the sick and wounded prisoners of war referred to in the second paragraph of the following Article. They may, in addition, conclude agreements with a view to the direct repatriation or internment in a neutral country of able-bodied prisoners of war who have undergone a long period of captivity.

No sick or injured prisoner of war who is eligible for repatriation under first paragraph of this Article, may be repatriated his will during hostilities.

Article 110

The following shall be repatriated direct: (1) Incurably wounded and sick whose mental or physical fitness seems to have been gravely diminished.

(2) Wounded and sick who according to medical opinion, are not likely to recover within one year, whose condition requires treatment and whose mental or physical fitness seems to have been gravely diminished.

(3) Wounded and sick who have recovered, but whose mental or physical fitness seems to have been gravely and permanently diminished.

The following may be accommodated in a neutral country:

(1) Wounded and sick whose recovery may be expected within one year of the date of the wound or the beginning of the illness, if treatment in a neutral country might increase the prospects of a more certain and speedy recovery.

(2) Prisoners of war whose mental or physical health, according to medical opinion, is seriously threatened by continued captivity, but whose accommodation in a neutral country might remove such a threat.

The conditions which prisoners of war accommodated in a neutral country must fulfill in order to permit their repatriation shall be fixed, as shall likewise their status, by agreement between the Powers concerned. In general, prisoners of war who have been accommodated in a neutral country, and who belong to the following categories, should be repatriated:

(1) Those whose state of health has deteriorated so as to fulfill the conditions laid down for direct repatriation;

(2) Those whose mental or physical powers remain, even after treatment, considerably impaired.

If no special agreements are concluded between the Parties to the conflict concerned, to determine the cases of disablement or sickness entailing direct repatriation or accommodation in a neutral country, such cases shall be settled in accordance with the principles laid down in the Model Agreement concerning direct repatriation and accommodation in neutral countries of wounded and sick prisoners of war and in the Regulations concerning Mixed Medical Commissions annexed to the present Convention.

Article 111

The Detaining Power, the Power on which the prisoners of war depend, and a neutral Power agreed upon by these two Powers, shall endeavour to conclude agreements which will enable prisoners of war to be interned in the territory of the said neutral Power until the close of hostilities.

Article 112

Upon the outbreak of hostilities, Mixed Medical Commissions shall be appointed to examine sick and wounded prisoners of war, and to make all appropriate decisions regarding them. The appointment, duties and functioning of these Commissions shall be in conformity with the provisions of the

Regulations annexed to the present Convention.

However, prisoners of war who, in the opinion of the medical authorities of the Detaining Power, are manifestly seriously injured or seriously sick, may be repatriated without having to be examined by a Mixed Medical Commission.

Article 113

Besides those who are designated by the medical authorities of the Detaining Power, wounded or sick prisoners of war belonging to the categories listed below shall be entitled to present themselves for examination by the Mixed Medical Commissions provided for in foregoing Article:

(1) Wounded and sick proposed by a physician or surgeon who is of the same nationality, or a national of a Party to the conflict allied with the Power on which the said prisoners depend, and who exercises his functions in the camp.

(2) Wounded and sick proposed by their prisoners' representative.

(3) Wounded and sick proposed by the Power on which they depend, or by an organization duly recognized by the said Power and giving assistance to the prisoners.

Prisoners of war who do not belong to one of the three foregoing categories may nevertheless present themselves for examination by Mixed Medical Commissions, but shall be examined only after those belonging to the said categories.

The physician or surgeon of the same nationality as the prisoners who present themselves for examination by the Mixed Medical Commission, likewise the prisoners' representative of the said prisoners, shall have permission to be present at the examination.

Article 114

Prisoners of war who meet with accidents shall, unless the injury is self-inflicted have the benefit of the provisions of this Convention as regards repatriation or accommodation in a neutral country.

Article 115

No prisoner of war on whom a disciplinary punishment has been imposed and who is eligible for repatriation or for accommodation in a neutral country, may be kept back on the plea that he has not undergone his punishment.

Prisoners of war detained in connection with a judicial prosecution or conviction and who are designated for repatriation or accommodation in a neutral country, may benefit by such measures before the end of the proceedings or the completion of the punishment, if the Detaining Power consents.

Parties to the conflict shall communicate to each other the names of those who will be detained until the end of the proceedings or the completion of the punishment.

Article 116

The cost of repatriating prisoners of war or of transporting them to a neutral country shall be borne, from the frontiers of the Detaining Power, by the Power on which the said prisoners depend.

Article 117

No repatriated person may be employed on active military service.

[From the New York Times, Dec. 2, 1970]

TEXT OF RESOLUTION ADOPTED IN U.N. ON WAR PRISONERS

UNITED NATIONS, N.Y., December 1.—Following is the text of the United States-sponsored resolution on prisoners of war adopted today by the Social Committee of the General Assembly:

Believing therefore that the treatment accorded to victims of war and armed aggression is a concern of the United Nations.

Noting Resolution adopted by the international conference of the Red Cross at

Istanbul calling upon all parties to the 1949 Geneva Convention relative to the treatment of prisoners of war to insure that all persons entitled to prisoner-of-war status are treated humanely and given the fullest measure of protection prescribed by the conventions, and that all parties involved in an armed conflict, no matter how characterized, provide free access to prisoners of war and to all places of their detention by a protecting power or by the International Committee of the Red Cross.

Considering that direct repatriation of seriously wounded and seriously sick prisoners of war and repatriation or internment in a neutral country of prisoners of war who have undergone a long period of captivity constitute important aspects of human rights as advanced and preserved under the Geneva Convention and the United Nations Charter.

The General Assembly, Recalling that the preamble of the United Nations Charter affirms faith in the dignity and worth of the human person,

Recalling that the United Nations has as one of its purposes achievement of international co-operation in solving international problems of humanitarian character and promotion of respect for human rights,

Reiterating the obligation of states members for the urgent termination of all armed aggression as envisaged in Articles 1 and 2 of the charter and in other relevant documents of the United Nations,

Noting the obligation of states members under the Charter of the United Nations to promote universal respect for, and observance of, human rights,

Recalling resolutions requesting the Secretary General, in consultation with the International Committee of the Red Cross, to continue to study, inter alia, (1) steps which could be taken to secure the better applications of existing humanitarian international conventions and rules in armed conflicts; and (2) the need for additional humanitarian international protection of civilians, prisoners and combatants in all armed conflicts,

1. Calls upon all parties to any armed conflict to comply with terms and provisions of the 1949 Geneva Convention relative to the treatment of prisoners of war so as to insure humane treatment of all persons entitled to the protection of the convention and, inter alia, to permit regular inspection in accordance with the convention of all places of detention of prisoners of war by a protecting power or humanitarian organization, such as the International Committee of the Red Cross;

2. Endorses the continuing efforts of the International Committee of the Red Cross to secure effective application of the convention;

3. Requests the Secretary General to exert all efforts to obtain humane treatment for prisoners of war especially for the victims of armed aggression and colonial suppression;

4. Urges compliance with Article 109 of the convention, which requires repatriation of seriously wounded and seriously sick prisoners of war and which provides for agreements with a view to direct repatriation or internment in a neutral country of able-bodied prisoners of war who have undergone a long period of captivity;

5. Urges that combatants in all armed conflicts not covered by Article 4 of the Geneva Convention of Aug. 12, 1949, relative to the treatment of prisoners of war, be accorded the same humane treatment defined by the principles of international law applied to prisoners of war;

6. Urges strict compliance with the provisions of the existing international instruments concerning human rights in armed

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conflicts and urges those who have not yet done so to ratify or accede to the relevant instruments in order to facilitate in all aspects the protection of the victims of armed conflicts.

Mr. BYRD of West Virginia. Mr. President, I again compliment the able Senator from Michigan. I express my appreciation to the distinguished Senator from Alaska for yielding.

Mr. GRAVEL. Mr. President, I yield to the Senator from Michigan to respond to the Senator from West Virginia.

Mr. GRIFFIN. Mr. President, very briefly I want to thank the Senator from West Virginia for his remarks and for his contribution to this discussion. It is by no means the first indication of his interest in this subject. He has been an eloquent advocate of action and progress in this area for a long time.

Mr. President, of course, my statement was available to the administration a number of hours ago. The President has had copies of it. Earlier today, the Secretary of Defense at a press conference was asked this question:

Mr. Secretary, Senator Griffin has proposed release of a certain number of prisoners in South Vietnam, also the wounded and injured. Is this proposal under consideration and has any decision been made or can we expect one?

Defense Secretary Laird's response was:

I support the proposal of Senator Griffin. I believe that it has considerable merit. And certainly I will do what I can to encourage this proposal.

Mr. President, I ask unanimous consent that the complete text of the transcript of the news conference of Secretary Laird be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

NEWS CONFERENCE BY SECRETARY OF DEFENSE
MELVIN R. LAIRD AT PENTAGON DECEMBER
15, 1970

Secretary LAIRD. Ladies and gentlemen, when I left for the Defense Planning Committee meeting in Brussels and for the NATO Council meeting I indicated that I would come down and report to you on those meetings.

I have a few brief comments to make and I will give you a two-page statement which I used in briefing the staff meeting at the Pentagon, which I thought might be of interest to you.

I believe that the NATO meeting in Brussels this month was perhaps the most important of the NATO meetings in many years. I have had an opportunity to be involved with the Alliance as a Member of Congress and now, for the past two years, as Secretary of Defense.

I particularly want to express my appreciation to Minister den Toom and Minister Schmidt for the work that they did in establishing the new NATO Improvement Program; also, the work that was done by the Secretary General who came up and encouraged the NATO Allies to make a new movement towards greater sharing of the military and financial burdens of the Alliance during the next five-year program.

I think that the actions that were taken express a new spirit as far as NATO is concerned. This is recognized in the heightened interest of the European allies, in the realities which we face here in the United States. The realities of the 1970's which press upon us are the manpower reality, the fiscal reality, the reality and political reality.

The decision which they made to go forward with this first step towards increased sharing of the burden as far as the Europeans are concerned, I think, was indeed most heartening. This is the first action in this direction to improve forces and to more adequately share the burden of the Alliance in the last 10 or 12 years.

I think that this movement in this direction is significant. It should be recognized as such and I know the Secretary of State shares with me, as well as the entire Administration, the importance of the movement which was initiated by the Europeans themselves. We have for a long time stressed in this Administration the importance of consultation and discussions. And I think that this type of consultation and discussion process which has been carried on during the last two years has been helpful to the Alliance and does make it possible for us to maintain not only the strategic nuclear deterrent, which is so important as far as the Alliance is concerned, the tactical nuclear deterrent, which is important, but places an increased stress on the importance during the 1970's of the conventional deterrent as far as the Alliance is concerned.

I also wanted to announce today that the Chairman of the Joint Chiefs of Staff and I will be going to Southeast Asia early in January. We will leave here on the 5th of January for meetings in Paris with our negotiators, Ambassadors Bruce and Habib, and Lieutenant General Ewell. From Paris, we will go to Thailand and then into South Vietnam.

The purpose of this visit is to assess the progress of the Vietnamization program; to assess the military situation in Southeast Asia; to assess the military assistance programs; and also to confer with General Abrams on what lies ahead as far as further troop reductions and an on-the-ground assessment of the military situation in Southeast Asia.

The third announcement that I would like to make is that Wednesday, tomorrow (Note: Changed to Thursday, Dec. 17) at 11 o'clock, Roger Kelley, Assistant Secretary of Defense for Manpower, will be here to brief you on a new memorandum which I have signed, which places into effect a new equal opportunities program for the Department of Defense.

This equal opportunity program has several new aspects to it, and if you can take the time to spend 35 to 45 minutes with Roger Kelley tomorrow here in this room, he will give a detailed briefing on the new equal opportunities program which will govern the civilian and military manpower problems as far as the Department of Defense and also contract personnel problems.

Fourth, during the past year, we have been going forward on our review of the method in which to dispose of our biological weapons. As you know, one of the first requests that I made of the National Security Council and the new Administration was to review completely our biological research programs and our chemical warfare programs. As a Member of the Congress, I had felt for a long time that such a review was needed and necessary, and such a review had not been made at the highest levels of our Government since the late 1950s.

A new program has been established, and we have been going forward with the initiatives that are necessary to place this new program into operation. We will be announcing the plans by which the destruction of biological agents and toxin weapons which have been produced prior to the time that I became Secretary of Defense. This destruction program will go forward and has now been coordinated in the various agencies of the Government, and we will have a briefing on the destruction program within the next week. I don't intend to get into the details of the program as it has been finalized as far as the destruction of the biologi-

cal and toxin weapons, but that program will go forward and has been fully coordinated and it is ready to move now. As you know, we will only retain a minimum defensive research program in the biological area.

The fifth item, before we get into questions, that I would like to comment on is to express my gratification over the action which was taken by the House Appropriations Committee, the House Foreign Affairs Committee, the Senate Foreign Relations Committee and the Senate Appropriations Committee approving the military assistance and aid requests which were placed before this recess session of the Congress. We anticipate with the action which we hope will be taken in the Senate today that we will have had complete success on this request which the Secretary of State and I have presented to these Committees. And we are delighted at the overwhelming support which our testimony received and the enthusiastic response by the Congress; yesterday's unanimous vote of the appropriation measure was indeed a rather historic first as far as military assistance or aid programs. We do want to express our appreciation for the response which this request of the President received in the Senate and in the House of Representatives.

Gentlemen, I would be glad to answer any questions.

Question. Mr. Secretary, while you are on this trip around the world, will there be a sort of standstill on troop withdrawals pending your assessment?

Secretary LAIRD. We have gone forward with the fifth increment of the troop reduction. As I told you here in this room when the fifth increment was announced, that we would meet or beat the 344,000, we have done that. We have beaten the target as we have done on every announcement that we have made on reductions. Today we have withdrawn over 200,000 men from Vietnam and this has been because of the progress of our Vietnamization program.

The sixth increment will move forward. A planning conference will be held on the fourth of January in Hawaii and the plans for the reduction to 284,000 by May 1 will be formulated; the transportation, the support plans for that sixth increment will be finalized at the troop withdrawal conference on January 4.

We will be, of course, below the 340,000 prior to the time the planning conference takes place. Our troop ceiling today, as of December 31, is 344,000. But we will be below 340,000 at the time that that planning conference takes place. Their responsibility will be to finalize the plans to get down to the May 1 troop ceiling.

I can assure you that we will meet or beat the troop ceiling of May 1. We have never engaged in monthly figures. And I don't intend to set monthly troop ceilings, so that's the way we will leave that.

Question. Do you see anything developing militarily in Vietnam—either North Vietnam or related areas—that threatens this particular planning for the troop reductions by May 1?

Secretary LAIRD. There is nothing developing militarily that would cause us not to meet or beat the May 1 troop announcement.

Question. Mr. Secretary, could you give us an estimate of the military situation, the order of battle in South Vietnam and what the rate of infiltration have been over the last six months, currently?

Secretary LAIRD. The rates of infiltration for this year will be somewhat below the rates of infiltration for last year. The rate of infiltration in November this year was higher than the rate of infiltration for November of last year. The rate of infiltration this month is running slightly below December of a year ago. I do not get into specific figures in this area, but that is the general level as far as infiltration is concerned.

Major activities which are being carried on

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by the North Vietnamese as far as military actions are confined to a large extent to Laos and Cambodia at the present time.

Question. Could you say something about Son Tay, with regard to the CIA? Mr. Helms has said one thing; you have said another thing.

Secretary LAIRD. I don't believe that your question is based on any fact. If you will ask me a question about my association with the CIA, I would be glad to answer it. But as far as your quoting Mr. Helms, I don't believe there is any quote that could be attributed to him.

Question. Without using a quote from him, could you give us a quick look at the timetable as to when you first consulted them, what their response was at that time and then again just before the raid, was there consultation, was there approval and so on just before the raid?

Secretary LAIRD. First, in regard to the last part of your question, the responsibility for the approval and recommendations to the President of the United States is my responsibility. I made the recommendation to the President of the United States and also recommended the planning timetable as far as the Son Tay search and rescue mission is concerned. I think it should be understood that in making this recommendation, I drew upon all elements of our intelligence community and on every other asset that was available to me as Secretary of Defense.

As far as the first discussions with the Central Intelligence Agency, I believe that they run back into some time in May. As far as the continuing recognition of their capabilities, their advice, their input, it was a continuing thing that ran right through until the day that the search and rescue mission was carried out.

I well remember sitting in my office with the Director of the Central Intelligence Agency as we waited for the helicopters to take off at Son Tay; as we waited for them to cross the border; as we waited for our first reports as to whether or not POW's had been rescued at Son Tay. I can well remember listening to the clock tick as we waited for those messages.

I do not pass the responsibility for the decision in improving the planning or in recommending to the President the execution to anyone. It is my responsibility under the National Security Act of 1958 to make such recommendations to the Commander-in-Chief. I can assure you that there was continuing consultation and the assets of all agencies of our Government were drawn upon all along the way as far as the search and rescue mission is concerned at Son Tay.

Question. Mr. Secretary, Senator Griffin has proposed release of a certain number of prisoners in South Vietnam, also the wounded and injured. Is this proposal under consideration and has any decision been made or can we expect one?

Secretary LAIRD. I support the proposal of Senator Griffin. I believe that it has considerable merit. And I certainly will do what I can to encourage his proposal.

Question. Mr. Secretary, to go back to NATO a minute, you were enthusiastic about what the Allies are proposing to do. How much of the \$1.5 billion annual balance of payments loss that NATO is costing us will this make up in your estimate?

Secretary LAIRD. As far as the total cost of the United States forces and United States troops, as well as ground troops, air and naval forces, our cost will increase, not decrease, as far as NATO is concerned. This is true because of the increase in personnel costs that have come about because of pay increases and because of the increased costs as far as procurement of the supplies that are needed and necessary to maintain our forces in Europe.

This does not have the same related effect, however, on the balance of payments, but

the balance of payments problem will remain about the same. These increases will be reflected not in the balance of payments, but they will be reflected as far as our budget is concerned because of increased costs.

We will maintain, however, our military capabilities in NATO and we expect to submit that kind of a budget to the Congress this January. I think the budget submission is the first week in February.

Question. Are you convinced that Vietnamization is going to work out leaving large numbers of American troops in Vietnam indefinitely?

Secretary LAIRD. Yes, I am.

Question. To get back to Son Tay, you said you were in consultation with the CIA throughout this thing. Did at any time the CIA advise you that there was a possibility that prisoners might not be there?

Secretary LAIRD. The situation was always such that we could not judge whether prisoners were in the cells with any degree of certainty. This was a matter that was always a risk. It was a risk associated with the entire mission, but in answer to the direct question which you pose, the answer would of course be "no."

Question. We have heard a lot of talk and there has been some speculation by the columnists regarding a return to the Cold War, particularly related to Europe and to the Middle East. I would like to know if the activities of the Soviet Union in the Middle East have hardened our own attitude toward the Soviet Union? And whether the Middle East activities of the Soviet Union have caused any concern among our NATO Allies regarding Soviet intentions?

Secretary LAIRD. The answer is they have caused some concern. There have been certain actions taken by the Soviet Union, not only as far as the Middle East is concerned, but as far as Berlin, as far as the Mediterranean, as far as the Caribbean, that I do believe are somewhat related to the negotiations which are currently going on in all of these areas.

Question. The President in his last news conference issued some warnings to the North Vietnamese about what the United States would do if they attacked our troops withdrawing from Vietnam. Can you give us some idea of the military steps that are being taken to back up those words?

Secretary LAIRD. It's always been evident, I think, that the understandings as we envisioned those understandings were violated by the North Vietnamese, certain actions would be taken by us.

I would like to just repeat, and if I could read this—I have made a number of statements on this subject which I think have pointed up my hopes for successful negotiations in Paris and for adherence with the understandings that were reached when the bombing was stopped. But since you asked, let me give you this added thought. It would be my view that "if the good faith which was attached to Hanoi's effort to get substantive talks, disintegrates or disappears, and if it is ascertained that they are not proceeding in good faith in their negotiations and that efforts are being made to violate the good faith understandings with movements of one kind or another, then that decision could be made."

And that decision that could be made refers to the question being asked, could bombing be resumed to the North?

This statement was made on October 31, 1968, under a practice that was carried on here in the Department of Defense under the previous Administration, which quotes Defense Department officials. These are the same Defense Department officials that are standing right here now, except I don't go for the backgrounders. I think you understand that I have not carried on that practice.

I will hand you a copy of this statement as

you leave, so that you can see that since October 31, 1968, there has been no misunderstanding in this building and there should be no misunderstanding on the part of any reporter that listened to that background on October 31 of 1968. And I wish that you would read that statement carefully, gentlemen, in response to the question on bombing of the North.

Question. Has your office issued any kind of restrictions as to what personnel that look part in the Son Tay mission can talk to the press about the mission?

Secretary LAIRD. I think that any of you that were with me when we went to Fort Bragg had a very free afternoon in the discussion regarding the Son Tay search and rescue mission. If there was any inhibition on the part of any of the people that took part in the raid, I would like to know about it.

I do not believe that continued discussion, however—I am glad to answer your questions, but I am willing to go forward with this kind of an operation in the future, if time and circumstances and the opportunity presents itself. That's all I care to say about it. I do not believe any further discussions on how we prepare for such an operation in the future would serve a useful purpose.

Question. In discussing NATO, you've only used the military capabilities or force capabilities?

Secretary LAIRD. I have always felt that that's the important thing by which you judge a deterrent, the capabilities of the deterrent. I have in my statements to the Congress always followed that line. We are increasing our capabilities as far as NATO is concerned, from 1967 to 1968, even in 1966; we are moving the people in and out of the NATO force structure in a rather rapid fashion. As a Member of Congress, I was critical of the combat effectiveness of our forces in Europe and felt that their capabilities were not as they should be. I can report to you today that our military capabilities in Europe are improving.

Question. What I was going to ask, sir, was in connection with the latest burden-sharing arrangement, can we safely assume that by maintaining or increasing military capabilities, as you put it, this will require that the same number, substantially the same number of troops, within, say two or three thousand, American troops will be kept in Europe?

Secretary LAIRD. I think it's important not to get tied to a given figure. We have a troop ceiling in Europe; the number of billets, spaces, are in the neighborhood of 315,000 to 320,000, in that general area, the military spaces as far as NATO forces.

We do not operate at the troop ceiling. Every billet or every space is not filled. From time to time, there are lower figures. The approximate figure averages out at very close to 300,000. I don't want to get into this business of actual count of spaces filled and authorized spaces, because you're always going to have a variance there. Some people that don't cover this building and aren't familiar with the difference between spaces assigned and troop ceilings and actual counts sometimes get the two confused. And I don't think we want to lead to that kind of a problem.

Question. On that point, what is the mission of the American troops in NATO? Is it to hold the line for a temporary period? Is it to win the war over there and are you irrevocably committed for several years on keeping the level around 300,000 in the face of the Mansfield proposals and others?

Secretary LAIRD. The situation is such that we are following a strategy of developing and maintaining a conventional deterrent, as far as NATO is concerned. It is important, I believe, that as we move to the direction of sufficient or parity in the tactical nuclear field and in the strategic nuclear field that

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the importance of the conventional deterrent increases. We will maintain this conventional deterrent and improve it. The only thing that could change our position is, of course, the unwillingness of our Allies to improve and maintain their forces or a movement towards an agreement on mutual and balanced force reductions.

Question. May I ask one more question about the bombing? As you know, the President said the other night that if the North Vietnamese develop a capacity and proceed to use that capacity to increase the level of fighting, then he would alter the bombing. Are they developing a capacity or have they made any attempt to use such a capacity to increase the level of fighting?

Secretary LAIRD. They have not increased the level of fighting, as far as Vietnam is concerned. There is some misunderstanding on the part of some people I know in the Congress from the questions that were asked the other day. I had a feeling that people think the war in Southeast Asia and in Vietnam has been escalated. Just the opposite is true. We've withdrawn 200,000 men from the area, American men. We have cut the number of sorties this year as compared with last year. If you take November of 1970 and compare it with November of 1969, our sortie rate is substantially reduced, very substantially reduced.

So, the level of effort and the military activity as far as Southeast Asia is concerned is at a lower level this year than it was last year. We are truly deescalating the war and disengaging as far as Americans are concerned.

Question. Regarding your appearances before the Foreign Relations Committee, you have been advised according to news reports to smile more and not to smile at all. Have you determined which is proper?

Secretary LAIRD. I saw that news report. I think that that news report referred to earlier testimony when I was testifying on the strategic weapon balance between the Soviet Union and the United States.

I will try to carry on the best I can and smile when I should and not smile when I shouldn't, but I have to make that judgment. I don't think anybody else can make it for me. (Laughter)

Question. If the Vietnamization program continues toward successful conclusion and in the absence of a political settlement in Paris, what kind of options do you see left for getting the release of the prisoners in North Vietnam?

Secretary LAIRD. This will have a very important effect upon our Vietnamization program, because we are going to maintain a United States presence until a satisfactory solution can be worked out for the prisoners of war.

I am hopeful that negotiations will be the route that we can follow and that we will be successful with negotiations because this is the way to have a complete and total withdrawal of American forces coupled with a satisfactory solution to the prisoner of war problem.

We will continue to make a maximum effort in this area. I spent this morning with Ambassador Habib before I came here to this press conference. I will be meeting with Ambassador Bruce, and Ambassador Habib and General Ewell in Paris on the fifth of January. This, I think, shows the importance that we in the Department of Defense attach to the negotiations.

Question. At the time of the bombing strikes in the North, we were told that no ordnance was used north of the 19th parallel. And as the Son Tay story developed, it turns out that this does not seem to be the case.

Secretary LAIRD. I don't know who told you that. I know that I was quoted as saying that on the diversionary flight there was no bombing mission involved. I stood here when General Manor said that the amount of

ordnance was a minimum amount of ordnance in connection with the Son Tay raid.

So that the record can be very clear in this area, the Navy diversionary flight which was not a bombing mission, the mission of the Navy diversionary flight along the coast of North Vietnam was not a bombing mission. It was not a mission in connection with the dropping of ordnance. It was assigned the sole responsibility to drop flares as a diversionary effort. These pilots have the authority of self-defense when radars lock in on these diversionary flights of Naval aircraft in connection with the Son Tay search and rescue mission; these pilots when they were locked on by ground radar and when SAM missiles were being fired and in preparation for such firings did expend three SHRIKE missiles.

This was not a bombing mission, but these pilots have in the authority which I have approved, the right of self-defense and they did fire three SHRIKE missiles after being locked on by North Vietnamese SAM radar.

Just so there can be no misunderstanding, I told the Senate Armed Services Committee in the first briefing that there were 12 to 14 SHRIKE missiles fired. I have since corrected that record and the total number of SHRIKES fired, even by the planes that were actually in the operation and not part of the diversionary, 3 plus 8, a total of 11 SHRIKE missiles.

Question. You have quoted here the October 31, 1968, backgrounder here at the Pentagon in connection with the halt in the bombing in which it was stated, if I heard you correctly, that the question of good faith at Paris was the crucial factor and that the other side did not exhibit good faith.

Secretary LAIRD. If substantive talks did not result, I will give you a copy of it, just to refresh your memory. I am sure you were here.

Question. My question really is this: By quoting that are you suggesting that this is now the policy of this Administration, that if good faith does not appear in the Paris negotiations—

Secretary LAIRD. No, my point is that calling this to your attention, and I know that most of you in this room don't need to have it called to your attention, is that there has been no basic change in policy.

Question. If you say, Mr. Secretary, that there will be a U.S. military presence in South Vietnam until there is a satisfactory resolution of the prisoner issue and that must be by negotiation, are you saying that there will be no total withdrawal of American forces except by a negotiated settlement with North Vietnam?

Secretary LAIRD. No, I am not saying that at all. I am saying that until the prisoners are released, there will be no total and complete withdrawal of American presence in Vietnam; that the way to have total and complete withdrawal of Americans in Vietnam, the fastest, most rapid way is, of course, the negotiation route. In October, the President of the United States laid this before the negotiators in Paris as one of the five basic points for peace in Southeast Asia.

Question. Then the only absolute point that must be negotiated is prisoners.

Secretary LAIRD. There can be a release, and I would hope that the North Vietnamese would release their prisoners and I can assure you that we stand ready to encourage the South Vietnamese to release all of the North Vietnamese prisoners.

This was the proposal that was placed before the Paris negotiators just last week. It did not receive a favorable response. But I can assure you that we have not stopped in this area and we will continue to push forward.

Question. Back to NATO for a second, with the reduction of general purpose forces in the United States progressing, do you think that the present level of United States

forces in Europe can be maintained beyond 1972-1973 or must there be a certain ratio between the number of divisions stationed on the United States mainland and abroad?

Secretary LAIRD. As far as stationing forces in mainland United States and pre-positioning equipment in Europe, this is not the best type of military investment, as far as the Department of Defense. As a matter of fact, it is more expensive for us to follow that procedure than the procedure that we will recommend in the 1972 budget.

Question. Mr. Secretary, do you feel that Hanoi got the better part of the bargain in the 1968 bombing halt understanding?

Secretary LAIRD. I have not gotten into a discussion of whether the decision in 1965 was the proper decision to put Americans on the ground in Vietnam. I have not looked backwards as to whether the understandings of 1968 were to the best interest of the United States or not. I do not believe it does us any good in this year, 1970, to look backwards to the decision of '68 or the decision of 1965.

I have tried to carry on the operations of this Department and have been a voice in the Administration which has tried to remove Americans from Vietnam and do what we can to live by the understanding as we understand it that was arrived at in 1968 as far as the bombing halt is concerned. We have made it evident to the other side the actions that we will take from time to time, if it is thought that those understandings have been violated.

Mr. GRAVEL. Mr. President, I would like to compliment my colleague for what he has done in this regard. I have read the proposal. I think it is a very good proposal.

I talked earlier today about the new thrust that the administration has given to the whole POW question. I think this is part of it. I do not want to denigrate it because I think it is sincere. I think it has merit. But I would like to draw a comparison. I think it is a very sobering comparison.

We can emote. We can feel sorry over our prisoners. We should feel more sorry over our maimed and our dead. And we should properly have some emotion. But I think that in wisdom we should realize that the enemy has prisoners of ours and that we have prisoners of theirs. We should realize that had a similar request been made in the Second World War, at a time when the Japanese were also brutalizing Americans, and had we requested the release of American prisoners, that request would not have been acceptable at that time. It is acceptable today because of the nature of the war we are fighting.

From the enemy's point of view, it is not acceptable at all. If one is fighting a fellow who is 10 feet tall and the fellow is beating the tar out of him, the only way he has to inflict some pain on him is to grab hold of the fellow's ankle and bite that ankle.

The fellow then says, "Please stop biting my ankle because it hurts."

The fellow whacks him across the face a couple of more times and then looks down at him and says, "Please stop biting my ankle." That is exactly what our plea to North Vietnam is.

We say, "It hurts to have our men as prisoners there. Will you please release them because it is the humane thing to do." And it is. They could then come back and say, "How humane are you when your napalm our children? How humane